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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,179	05/11/2001	John P. Erspamer	1313/1G996US2	7219

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EXAMINER	
PATEL, NIHIR B	

ART UNIT	PAPER NUMBER
3743	8

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/854,179	ERSPAMER ET AL.	
	Examiner	Art Unit	
	Nihir Patel	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-50 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 through 9, 24, 25, 26, 27, 28, 29, 31, 33, 34, 35, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Lariviere et al. US Patent No. 6,515,195.

Referring to claims 1, 6, 7, 24, 25, 26, 27, 28, 29, and 45, Hoey discloses the applicant's invention as claimed with the exception of stating that the unitary absorbent core has a basis weight of about 75 gsm or greater.

Lariviere discloses a sanitary napkin with improved liquid retention capability that does state that the unitary absorbent core has a basis weight between 80 to 110 gsm (see column 2 lines 20-30). It is obvious to one in the ordinary skill of the art that the absorbent core that has a basis weight of about 75 gsm or greater (Lariviere) be used in Hoey's invention in order to absorb the liquid without damaging the absorbent core.

Referring to claims 2 and 30, Hoey discloses the applicant's invention as claimed with the exception stating that the absorbent layer comprises natural fibers, synthetic fibers, or a mixture thereof.

Lariviere discloses a sanitary napkin with improved liquid retention capability that does state that the absorbent layer comprises natural fibers, synthetic fibers, or mixture thereof (see

column 5 lines 10-20). It is obvious to one in the ordinary skill of the art that the absorbent layer that comprises natural fibers, synthetic fibers, or a mixture thereof be used in Hoey's invention in order to absorb the liquid without damaging the absorbent core.

Referring to claims 5 and 32, Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core further comprises from about 5 to about 90 percent by weight of SAP.

Lariviere discloses a sanitary napkin with improved liquid retention capability that does state that the absorbent layer includes from about 5 weight percent to about 60 weight percent super-absorbent polymer (see column 2 lines 35-40). It is obvious tone in the ordinary skill of the art that the absorbent layer that comprises 5 to about 90 percent by weight of SAP be sued in Hoey's invention in order to absorb the liquid without damaging the absorbent core.

Referring to claims 8 and 9, Hoey discloses the applicant's invention as claimed with the exception of stating that the core has a density of from about 0.03 to about 0.7 g/cc and 0.04 to about 0.3 g/cc.

Lariviere discloses a sanitary napkin with improved liquid retention capability that does state that the core has a density of from about 0.03 to about 0.7 g/cc and 0.04 to about 0.3 g/cc (see column 2 lines 20-36). It is obvious to one in the ordinary skill of the art that the absorbent core that has a density of from about 0.03 to about 0.7 g/cc and 0.04 to about 0.3 g/cc be used in Hoey's invention in order to absorb the liquid without damaging the absorbent core.

Referring to claims 24 and 43, Hoey discloses the applicant's invention as claimed with the exception of stating that the moisture barrier has a structure which substantially is fibers coated with hydrophobic material.

Lariviere discloses a sanitary napkin with improved liquid retention capability that does state that the moisture barrier has a structure which substantially is fibers coated with hydrophobic material.(see column 4 lines 45-50). It is obvious to one in the ordinary skill of the art that the moisture barrier that has a structure which substantially is fibers coated with hydrophobic material be applied to Hoey's invention in order to provide a stronger barrier.

Referring to claim 27, Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core comprises a microporous backsheet.

Lariviere discloses a sanitary napkin with improved liquid retention capability that does state that the absorbent core comprises a microporous backsheet (see column 9 lines 60-67 and column 10 lines 1-5). It is obvious to one in the ordinary skill of the art that an absorbent core that comprises a microporous backsheet be applied in Hoey's invention in order to provide a strong absorbent core.

Claims 10, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Van Gompel et al. US Patent No. 6,132,410.

Referring to claims 10, 11, and 12, Hoey discloses the applicant's invention as claimed with the exception of providing an absorbent core having a hydrohead of 30 mm or more.

Van Gompel discloses a disposable garment having dryness barriers with expandable attachment to an absorbent that does provide an absorbent core having a hydrohead of 30 mm or more (see column 8 lines 50-60). It is obvious to one in the ordinary skill of the art that the absorbent core having a hydrohead of 30 mm or more be used in Hoey's invention in order to prevent leaking.

Claims 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Ferguson et al. US Patent No. 4,341,217.

Referring to claims 13, 14, and 15, Hoey discloses the applicant's invention as claimed with the exception of providing an absorbent core that has a strikethrough of 0.7 g or less.

Ferguson discloses barrierless disposable absorbent article having an absorbent core encased in a homogeneous outer wrap that the absorbent has both a strikethrough time of less than 80 seconds and a bleedthrough quantity of less than 0.075 grams. The strikethrough and the bleedthrough in the reference (Ferguson) is equivalent to the applicant's strikethrough. It is obvious to one in the ordinary skill of the art that an absorbent core that has a strikethrough of 0.7 g or less be used in Hoey's invention in order to prevent the absorbent core from leaking or breaking.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Lasko et al. US Patent No. 6,277,104.

Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core has an air permeability of 18 $m^3/min/m^2$ ($60ft^3/min/ft^2$) or greater.

Lasko discloses an air permeable liquid impermeable barrier structures and products made therefrom that does state that the absorbent core has an air permeability of 18 $m^3/min/m^2$ ($60ft^3/min/ft^2$) or greater (see abstract). It is obvious to one in the ordinary skill of the art that an absorbent core that has an air permeability of 18 $m^3/min/m^2$ be applied in Hoey's invention in order to provide a stronger absorbent core.

Claims 17, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Keuhn Jr. et al. US Patent No. 6,238,379.

Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core has a water transmission rate of 3000 g/m²/24 hr or greater.

Keuhn discloses an absorbent article with increased wet breathability that does state that the absorbent core has a water transmission rate of 3000 g/m²/24 hr or greater (see column 10 lines 30-45). It is obvious to one in the ordinary skill of the art that an absorbent core has a water transmission rate of 3000 g/m²/24 hr or greater in Hoey's invention in order to provide a stronger absorbent core.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Lubnin et al. US Patent No. 6,020,438.

Hoey discloses the applicant's invention as claimed with the exception of stating that the emulsion polymer includes a hydrophobicity agent.

Lubnin discloses a supported vinyl chloride emulsion polymers and process for making the same that does provide an emulsion polymer that includes a hydrophobicity agent. It is obvious to one in the ordinary skill of the art that an emulsion polymer that comprises a hydrophobicity agent be used in Hoey's invention in order to provide a stronger absorbent core.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Chen et al. US Patnet No. 6,486,379.

Hoey discloses the applicant's invention as claimed with the exception of stating that the fibrous absorbent layer is a nonwoven produced by an airlaid process.

Chen discloses an absorbent article with central pledget and deformation control that does state that the fibrous absorbent layer is a nonwoven produced by an airlaid process. It is obvious

to one in the ordinary skill of the art that a fibrous layer that is a nonwoven produced by an airlaid process be used in Hoey's invention in order to provide a stronger absorbent core.

Claims 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yong et al. Patent No. WO 02/11655 A2.

Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core comprises three or more fibrous strata.

Yong discloses high-strength stabilized absorbent article that does state that the absorbent core comprises three or more fibrous strata. It is obvious to one in the ordinary skill of the art that an absorbent core that comprises three or more fibrous strata be used in Hoey's invention in order to provide a stronger absorbent core.

Claims 21, 22, 23, 46, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Roslansky et al. US Patent No. 6,371,950.

Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core that has a barrier effectiveness value of 75 mm or greater.

Roslansky discloses an incontinence article for males that does state that the absorbent core that has a barrier effectiveness value of 75 mm or greater. It is obvious to one in the ordinary skill of the art that an absorbent that has a barrier effectiveness value of 75 mm or better be used in Hoey's invention in order prevent the absorbent core from leaking.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lubnin et al. US Patent No. 6,020,438 as applied to claim 36 above, and further in view of Paul et al. US Patent No. 6,503,525.

Lubnin discloses the applicant's invention as claimed with the exception of stating that the process comprises providing a tissue having a base weight of less than about 30 gsm.

Paul discloses an absorbent article which maintains or improves skin health that does provide a tissue having a base weight of less than about 30 gsm. It is obvious to one in the ordinary skill of the art that a tissue that has a base weight of less than about 30 gsm be used in Lubnin's invention in order to provide a stronger absorbent article.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Roe et al. US Patent No. 6,384,296.

Hoey discloses the applicant's invention as claimed with the exception of stating that the foamed constituent is a high internal phase emulsion (HIPE) foam.

Roe discloses a disposable article having a responsive system including an electrical actuator that does state that the foamed constituent is a high internal phase emulsion (HIPE) foam. It is obvious to one in the ordinary skill of the art that a foam that is a high internal phase emulsion (HIPE) foam be used in Hoey's invention in order to provide a stronger absorbent article.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Graef et al. US Patent No. 6,525,240.

Hoey discloses the applicant's invention as claimed with the exception of stating that the nonwoven structure comprises about 50 to about 99 percent by weight of natural fibers, synthetic fibers, or a mixture thereof.

Graef discloses an absorbent article containing unitary stratified composite that does state that the nonwoven structure comprises about 50 to about 99 percent by weight of natural fibers,

synthetic fibers, or a mixture thereof. It is obvious to one in the ordinary skill of the art that a nonwoven structure comprises about 50 to about 99 percent by weight of natural fibers, synthetic fibers, or a mixture thereof be used in Hoey's invention in order to provide a stronger absorbent core.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Shirayanagi et al. US Patent No. 5,366,792.

Hoey discloses the applicant's invention as claimed with the exception of stating that the material or structure has been produced in a unitary process.

Shirayanagi discloses a laminated three layer non-woven fabric with improved interface and process for producing the same that does state that the material or structure has been produced in a unitary process. It is obvious to one in the ordinary skill of the art that the material or structure used in Hoey's invention be produced in a unitary process in order to provide a strong absorbent core.

Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Graef et al. US Patent No.2002/0007169 A1.

Hoey discloses the applicant's invention as claimed with the exception of stating that the fibrous stratum contains fifty percent or more by weight of eucalyptus fibers.

Graef discloses an absorbent composite having improved surface dryness that does state that the fibrous stratum contains fifty percent or more by weight of eucalyptus fibers. It is obvious to one in the ordinary skill of the art that a fibrous stratum contains fifty percent or more by weight of eucalyptus fibers be used in Hoey's invention in order to provide a stronger absorbent core.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoey US Patent No. 4,000,028 in view of Woon et al. US Patent No. 2002/0019614 A1.

Hoey discloses the applicant's invention as claimed with the exception of stating that the absorbent core comprises one or more strata which are multi-bonded with an emulsion polymer binder and thermal bio-component fiber binder.

Woon discloses an absorbent articles having improved performance that does state that the absorbent core comprises one or more strata which are multi-bonded with an emulsion polymer binder and thermal bio-component fiber binder. It is obvious to one in the ordinary skill of the art that an absorbent core that comprises one or more strata which are multi-bonded with an emulsion polymer binder and thermal bio-component fiber binder be used in Hoey's invention in order to provide a stronger absorbent core.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Nihir Patel whose telephone number is (703) 306-3463. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm. If attempts to reach the examiner by telephone are unsuccessful the examiner supervisor Henry Bennett can be reached at (703) 308-0101.

Henry Bennett
Supervisory Patent Examiner
Group 3700

NP
April 1, 2003